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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,214	04/07/2004	Richard Lunak	DB000975-004	7353

24122 7590 08/03/2005

THORP REED & ARMSTRONG, LLP  
ONE OXFORD CENTRE  
301 GRANT STREET, 14TH FLOOR  
PITTSBURGH, PA 15219-1425

EXAMINER

TRAN, KHOI H

ART UNIT PAPER NUMBER

3651

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/820,214

Applicant(s)

LUNAK ET AL.

Examiner

Khoi H. Tran

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-37 and 39-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6-8, 10, 11, 13-15, 19, 29, 31-37, 39 and 41 is/are rejected.
- 7) ☒ Claim(s) 2, 4, 9, 12, 16-18, 20-28, 30 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

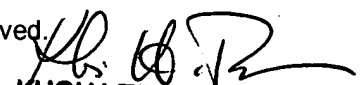
**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**KHOI H. TRAN**  
**PRIMARY EXAMINER**

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 3, 10, 11, 13-15, 19, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Fellows et al. 6,490,502.

The method disclosed by Fellows et al. includes all the claimed features and in particular includes: evaluating a queue of requests of items to be used in filling a package (column 8, lines 64 thru column 9, line 7); operating a carousel based on the evaluating (column 8, lines 64 thru column 9, line 7); filling a restocking package 14 with items held in the carousel 20 in response to the operating when an item is in the carousel', the evaluating being performed dynamically based on user provided priorities

(column 9, lines 10-12)\*, performing dose calculations based on doses not being present in the carousel (column 9, lines 54-57)\*, and generating a request whenever the quantity of the item falls below a par value (column 9, lines 59-65).

3. Claims 31-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Holmes et al. 6,640,159.

The method disclosed by Holmes '159 includes all the claimed features and in particular includes: filling an envelop with items in a centralized storage location, delivering the envelop to a dispensing device at a decentralized location, and inserting the envelop into a lock-lidded, patient specific location in the dispensing device (column 13, lines 24-39 and column 14, lines 6-52)., a tote 34 containing the envelops and inserting includes placing the tote in the dispensing device', the tote containing a chip having information regarding the contents (column 12, lines 31-33)., and the centralized location including an automation device for capturing information from the chip.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fellows et al. 6,490,502.

Fellows '502 discloses all claimed method steps as indicated in paragraph 2 above. However, it is silent as to the specifics of the queue of request containing

request for patients, for a plurality of dispensers, and for a plurality of decentralized locations. Fellows '502 implicitly indicated that the restocking method is used in a medication dispensing/picking environment. Hence, it is obvious that the queue of request for picking items would include: medication having patient specific information, items for a plurality of dispensers, and items for a plurality of decentralized locations.

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fellows et al. in view of McGrady 6,470,234.

With regard to claim 23, Fellows et al. includes all the claimed features but does not disclose a controlled substance vault. McGrady however discloses the broad teaching of providing a controlled substance vault or drawer for allowing a request to be sent to open the drawer for access. It would have been obvious to one of ordinary skill in the art to provide the method of Fellows et al. include sending a request to a controlled substance vault to facilitate restricted access and increased security for controlled substances.

7. Claims 37, 39, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes et al. 6,640,159 in view of Arnold et al. 6,151,536.

Holmes discloses all method steps per claimed invention including: filling a restocking package with items in a centralized storage location; loading a plurality of restocking packages into a cart; delivering the cart to a decentralizing location. However, Holmes '159 is silent as to the specifics of connecting said cart to another dispensing cart.

Arnold et al. '536 discloses a method for picking/dispensing medical items from a plurality of interconnected medical carts located at a decentralized location (Figure 1). Arnold '536 teaches that pluralities of medical carts are connected together for dispensing and monitoring purposes.

It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have connected Holmes '159 cart to another dispensing cart, as taught by Arnold '159, because it facilitates the dispensing and monitoring of medical items.

***Allowable Subject Matter***

8. Claims 2, 4, 9, 12, 16-18, 20-28, 30, and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments filed 06/24/2005 have been fully considered but they are not persuasive.

In regards to Fellows et al. 6,490,502 reference, Applicant argued that the reference does not disclose or suggest the limitation of "user configurable priorities". This argument is not persuasive. Fellows '502 dispenses articles based on the evaluation from a queue generated by a user. This queue is at least produced based on priorities configured by a user. Hence, the queue contains a set of user configurable priorities. Applicant argued that Fellows '502 does not contain "user configurable fill priorities". However, the scope of such phrase is not specifically defined even in

Applicant's remarks. For example, Applicant indicated "Such user configurable fill priorities may include, but are not limited to, filling new medication orders first, filling stat medication orders first, etc.". Hence, any type of picking/dispensing orders from a queue can be construed as being based on user configurable priorities.

In regards to Holmes et al. 6,640,159 reference, Applicant argued that "placing an envelope into a locked lidded patient specific location in a dispensing device is substantially different than replacing the liner in a drawer". This argument is not persuasive because the claim language within the claims does not provide any distinctions between the methods of putting an envelope/liner in a lock-lidded drawer of a cart dispenser verses placing an envelope in a lock-lidded cart dispenser.

### ***Conclusion***

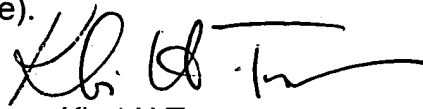
10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H. Tran whose telephone number is (571) 272-6919. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoi H Tran  
Primary Examiner  
Art Unit 3651

KHT  
08/01/2005